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Peter Martin Smit

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EXAMINER

PRICE, CRAIG JAMES

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,164	<b>Applicant(s)</b> SMIT, PETER MARTIN	
	<b>Examiner</b> Craig Price	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

**STATUS**

Claims 1, 3-17 are pending.

***Claim Objections***

Applicant's amendment overcomes the claim objections.

***Claim Rejections - 35 USC § 112***

Applicant's amendment overcomes the claim rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-9 and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Cronkhite (2,582,105).

Cronkhite disclose a valve assembly (as shown in Figures 1 and 2) able to be mounted with a liquid container, the valve assembly comprising,

a housing (7,31) having a passageway (24) that extends through the housing, and having openings (23,32) for liquid in the container to pass in and out of the passageway,

a liquid inlet (at 1,14) forming part of the housing, the liquid inlet allowing fluid to pass into a passageway of the housing,

an inlet float valve (33) mounted within the housing, the inlet float valve movable between an open position that permits the flow of liquid through the liquid inlet and into the passageway and a closed position that prevents the flow of liquid through the liquid inlet and into the passageway, and

a breather float valve (46) mounted within the housing, the breather float valve movable with liquid level in the housing between an open position to allow gas to pass through the passageway and out of the housing, and a closed position (as shown in Figure 2) that prevents liquid from passing through the passageway and out of the housing, the valve assembly characterized in that it includes a relief valve (50) that is movable between an open position and a closed position to allow pressure to be relieved from the container.

Regarding claim 3, Cronkhite discloses that the housing is cylindrical, as shown in the figures and in col.2, lns. 40-45.

Regarding claim 4, Cronkhite discloses that the inlet float valve includes a float (33) and a stem (see Figure 2, the short cylindrical section below 34).

Regarding claim 5, Cronkhite discloses that a valve seal (34) is located adjacent the end of the stem.

Regarding claim 6, Cronkhite discloses that a fuel chamber (the area within 7) is located adjacent the liquid inlet in which fuel is passed.

Regarding claim 7, Cronkhite discloses that a shelter (5) is provided within the fuel chamber in which an end of the stem is located when the float valve assembly is in the open position (not depicted in the figures, but as the float 33 comes

off the seat, the end of the "stem" is within the area of 7).

Regarding claim 8, Cronkhite discloses that the breather float valve includes a rod (56) and breather float (47).

Regarding claim 9, Cronkhite discloses that a spring (62) engages the breather float valve.

Regarding claim 11, Cronkhite discloses an assembly (as shown in Figures 1 and 2) able to be mounted with a liquid container, the assembly comprising,

a housing (7,31) having a passageway (24) that extends through the housing,  
a liquid inlet (at 1,14) forming part of the housing, the liquid inlet allowing fluid to pass into the passageway of the housing,

an inlet float valve (33) mounted within the housing, the inlet float valve movable between an open position that permits the flow of liquid through the liquid inlet and into the passageway and a closed position that prevents the flow of liquid through the liquid inlet and into the passageway, and

wherein the assembly is adapted to receive a breather float valve (46,47), the breather float valve movable between an open position to allow gas to pass through the passageway and a closed position that prevents liquid from passing through the passageway.

Regarding claim 12, Cronkhite discloses a valve assembly (as shown in Figures 1 and 2) able to be mounted with a liquid container, the valve assembly comprising a housing (7,31) that is hollow and substantially cylindrical in shape (col.2, Ins. 40-45)

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the housing having at least two openings (24 and within 30) that allow fluid located within the container to pass in and out of the housing,

a liquid inlet (at 1,14) located at the lower end of the housing, the liquid inlet allowing fluid to pass into a passageway of the housing,

an aperture (63) that is in fluid communication with the liquid inlet through a bleed conduit (70),

an inlet float valve assembly that includes a float (33), a stem (see Figure 2, the short cylindrical section below 34) and a valve seal (34) that is located adjacent the end of the stem, and the inlet float valve assembly is mounted within the housing, the inlet float valve assembly movable between an open position that permits the flow of fluid through the liquid inlet and into the passageway and a closed position that prevents the flow of fluid through the liquid inlet and into the passageway, and

a chamber (within 7) that is located adjacent the liquid inlet in which fluid is passed and a shelter (5) is provided within the chamber in which an end of the stem is located when the float valve assembly is in the open position.

Regarding claim 13, Cronkhite discloses that the valve assembly is adapted to receive a breather float valve (46,47), the breather float valve movable between an open position to allow gas to pass through a passageway and a closed position that prevents liquid from passing through the passageway.

Regarding claim 14, Cronkhite discloses that the valve assembly includes a relief valve (50) that is movable between an open position and a closed position to allow pressure to be relieved from the liquid container (Col. 3, Lns. 16-26).

Regarding claim 15, Cronkhite discloses a valve system (as shown in Figures 1 and 2) for controlling the flow of liquid into a tank, comprising, a control valve assembly (77,78) that is capable of being mounted to a liquid container,

a conduit (23) that provides for fluid communication between the control valve and a fluid valve sensor assembly (within housing 31), the fluid valve sensor assembly that is capable of being mounted to a liquid container, the valve sensor assembly comprising,

a housing (7,31) that is hollow and substantially cylindrical in shape (col.2, lns. 40-45) the housing having at least two openings (23,32) that allow fluid located within the container to pass in and out of the housing,

a liquid inlet (at 1,14) located at the lower end of the housing, the liquid inlet allowing fluid to pass into a passageway of the housing,

an aperture (63) that is in fluid communication with the liquid inlet through a bleed conduit (70),

an inlet float valve assembly that includes a float (33), a stem (see Figure 2, the short cylindrical section below 34) and a valve seal (34) that is located adjacent the end of the stem, and the inlet float valve assembly is mounted within the housing, the inlet float valve assembly movable between an open position that permits the flow of fluid through the liquid inlet and into the passageway and a closed position that prevents the flow of fluid through the liquid inlet and into the passageway, and

a chamber (within 7) that is located adjacent the liquid inlet in which fluid is passed and a shelter (5) is provided within the chamber in which an end of the stem is

located when the float valve assembly is in the open position.

Regarding claim 16, Cronkhite discloses that the fluid valve sensor assembly is adapted to receive a breather float valve (46,47), the breather float valve movable between an open position to allow gas to pass through a passageway and a closed position that prevents liquid from passing through the passageway.

Regarding claim 17, Cronkhite discloses that the fluid valve sensor assembly includes a relief valve (50) that is movable between an open position and a closed position to allow pressure to be relieved from the liquid container (Col. 3, Lns. 16-26).

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Kerlin (5,042,519).

Kerlin discloses an assembly able to be mounted with a liquid container, the assembly comprising, a housing (24,66,68,70) having a passageway that extends through the housing,

a liquid inlet (64), forming part of the housing, the liquid inlet allowing fluid to pass into the passageway of the housing,

an inlet float valve (58) mounted within the housing, the inlet float valve movable between an open position that permits the flow of liquid through the liquid inlet and into the passageway and a closed position that prevents the flow of liquid through the liquid inlet, and

wherein the assembly is adapted to receive a breather float valve (62), the breather float valve movable between an open position to allow gas to pass through the



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passageway and a closed position that prevents liquid from passing through the passageway, as shown in Figure 3.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cronkhite ('105) in view of Benjey et al. (5,860,458).

Cronkhite is silent to having a relief valve that includes a relief plate, a spring and a cap.

Benjey et al. disclose a float assembly which teaches the use of a relief valve (56, as shown in Figure 2) that includes a relief plate (the three legged structure near lead line 56), a spring (57) and a cap (the rubber hatched member attached to the plate).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a relief valve as taught by Benjey et al. with the relief valve of Cronkhite as one would have expected the valve to perform as equally as well and in order to vent the chamber (Col. 5, Lns. 18-22).

### ***Response to Arguments***

Applicant's arguments filed 6/26/2009 have been fully considered but they are not persuasive. Applicant's argument that the float does not prevent the flow of liquid into the chamber 33, is not persuasive, as the float provides at least an obstruction into the chamber and therefore does prevent the flow of liquid into the chamber, in the broadest reasonable interpretation of the term prevent.

Applicant's argument that Cronkhite does not allow fluid to enter into this chamber (32) is not persuasive, as Cronkhite discloses in columns 4, lines 71 to column 5, lines 6, "foam will push upwardly in the float chamber". Applicant's argument that Kerlin provides a float, which does not prevent liquid from passing through the liquid inlet, is not persuasive. The float of Kerlin will only open once the buoyant force of the liquid overcomes the weight of the ball. Therefore, prior to the force of the fluid overcoming the weight of the ball, the fluid is prevented from passing through the inlet passageway.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Price whose telephone number is (571)272-2712. The examiner can normally be reached on 7AM - 5:30PM Mon-Thurs, Increased flex time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CP

21 November 2009

/John Rivell/

Primary Examiner, Art Unit 3753

/C. P./

Examiner, Art Unit 3753